IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.4629 OF 1992.

The Sangli Municipal Council
Sangli : Petitioner.

versus

Maharashtra State Electricity
Board & ors. : Respondents.

Mr.N.V.Walawalkar for the petitioner.
Mr.S.K.chinchalikar, AGP, for Respondent No.3.
Mr.P.P.Chavan i/by M/s.Little & Co. for Respondent Nos. 1 and 2.

CORAM : D.G.DESHPANDE, J.

DATED : September 15, 2006.

P.C.

1. Heard advocates for the petitioner and respondents. Petitioner - The Sangli Municipal Council was running an undertaking as Jubilee

Electric Works. The said undertaking was taken over by the MSEB. A dispute arose about quantum of compensation. According to the petitioners, they were entitled to the compensation at market rate, whereas according to the MSEB, the petitioners were entitled to the compensation at book value on the property of the company after depreciation as provided under Section 7-A of the Indian Electricity Act, 1910.

2. In some litigation the constitutional validity of Section 7-A of the said Act was challenged and, ultimately the Supreme Court, in the case of **Maharashtra State Electricity Board v/s. Thana Electric Supply Co. and others, reported in [(1989) 3 SCC 616)**, upheld the constitutional validity of Section 7-A meaning thereby that the compensation to be paid for taking over electric company was as prescribed and provided by Section 7-A of the said Act.

3. In the mean time, the Municipal Council had filed a civil suit vide Special Civil Suit No.177 of 1988. An application came to be filed in that suit for appointment of the Commissioner for determination of value of undertaking

consisting of moveable as well as immovable properties handed over under Order XXVI Rule (9) of the Civil Procedure Code. That application came to be rejected and, therefore, the Municipal Council has filed this present petition. This petition is pending since 1992. Both the advocates agreed that in view of the aforesaid judgment of the Supreme Court, this petition does not survive though the suit may continue and to be decided in accordance with law. Hence the Petition is dismissed. Rule is discharged. Interim order, if any, stands vacated. The trial Court to decide the suit as expeditiously as possible within a period of six months from the date of appearance of the parties. Both the parties to appear before the trial Court on 9th October 2006.

[D.G.DESHPANDE, J.]